

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

_____	)	
IN RE PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESALE PRICE	)	MDL NO. 1456
LITIGATION	)	Civil Action No. 01-12257-PBS
_____	)	
	)	Hon. Patti B. Saris
THIS DOCUMENT RELATES TO	)	
01-CV-12257-PBS AND 01-CV-339	)	Chief Mag. Judge Marianne B. Bowler
_____	)	

**DEFENDANTS' MOTION TO COMPEL THIRD PARTY OXFORD HEALTH PLANS  
TO PRODUCE DOCUMENTS AND WITNESSES FOR DEPOSITION  
PURSUANT TO SUBPOENA AND FOR RECOVERY OF  
ATTORNEY FEES AND COSTS**

Defendants to the Amended Master Consolidated Class Action Complaint respectfully move this Court for an order compelling third party Oxford Health Plans ("Oxford") to produce documents and witnesses for deposition pursuant to the subpoena served upon Oxford on April 19, 2004, for recovery of attorney fees and costs, and for such other and further relief as the Court deems just and appropriate. The grounds for this motion are set forth in the accompanying memorandum of law, declaration of Adeel Mangi and exhibits thereto.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d) the undersigned counsel hereby request oral argument on the issues set forth in this motion and the accompanying memorandum of law and exhibits. For the reasons described in the accompanying memorandum of law and declaration, defendants request that the Court order the responsible in-house representative of Oxford to attend the oral argument.

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1**

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certify that counsel for defendants conferred with counsel for Oxford regarding the issues addressed in this motion, but were unable to resolve or further narrow the issues.

Dated: March 17, 2006

Respectfully submitted,

/s/ Andrew D. Schau  
Andrew D. Schau (admitted *pro hac vice*)  
Erik Haas (admitted *pro hac vice*)  
Adeel A. Mangi (admitted *pro hac vice*)  
PATTERSON, BELKNAP, WEBB & TYLER LLP  
1133 Avenue of the Americas  
New York, NY 10036-6710  
(212) 336-2000

*Attorneys for Defendants Johnson &  
Johnson, Centocor Inc. and Ortho Biotech  
Products L.P., on behalf of all defendants to  
the Amended Master Consolidated Class  
Action Complaint*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

In Re: PHARMACEUTICAL  
INDUSTRY AVERAGE WHOLESAL  
PRICE LITIGATION

MDL No. 1456

Master File No. 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:  
THE AMENDED MASTER  
CONSOLIDATED CLASS ACTION

Judge Patti B. Saris

Chief Mag. Judge Marianne B. Bowler

**[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO COMPEL THIRD  
PARTY OXFORD HEALTH PLANS TO PRODUCE DOCUMENTS AND WITNESSES  
FOR DEPOSITION PURSUANT TO SUBPOENA AND FOR RECOVERY OF  
ATTORNEY FEES AND COSTS**

Having considered each of the parties' and third party's submissions with respect to Defendants' Motion to Compel Third Party Oxford Health Plans To Produce Documents And Witnesses For Deposition Pursuant To Subpoena And For Recovery Of Attorney Fees And Costs, the Court hereby grants the motion.

It is hereby ordered that within twenty days of the entry of this order, Oxford Health Plans complete production to defendants of all documents responsive to defendants' subpoena. It is further ordered that the Plan produce witnesses for deposition within thirty days of the date of this order. Defendants are awarded costs and fees in an amount to be assessed.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Marianne B. Bowler  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I certify that on March 17, 2006 a true and correct copy of the forgoing DEFENDANTS' MOTION TO COMPEL THIRD PARTY OXFORD HEALTH PLANS TO PRODUCE DOCUMENTS AND WITNESSES FOR DEPOSITION PURSUANT TO SUBPOENA AND FOR RECOVERY OF ATTORNEY FEES AND COSTS was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties. I further certify that on March 17, 2006 a copy was served on counsel for third party Oxford Health Plans via Federal Express.

/s/ Andrew Schau  
Andrew Schau